IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2729 OF 2005

Planet Entertainment.. ... . Petitioner.
Versus
State of Maharashtra & Others. ... . Respondents.

Mr. Chetan Akerkar for the Petitioner.

Mr. P. I. Khemani, AGP for Respondent Nos.1 to 5.

CORAM: DALVEER BHANDARI, C.J. &
S. A. BOBDE, J.

DATED : MAY 3, 2005.

P.C. :

The petitioner has impugned the order of the Divisional Commissioner, Konkan Division, Mumbai, in Appeal No. Appeal/Desk/ENT/231/2004 filed under Section 10(A) of the Bombay Entertainment Duty Act, 1923. The Appellate Authority has dismissed the petitioner's appeal and upheld the order of the

Collector, Mumbai Suburban District.

2. The Collector has levied entertainment duty of Rs.1,87,500/- and penalty thereon. The petitioner M/s. Planet Entertainment is a partnership firm engaged in the business of events management and promotions. It conducts entertainment programmes on a large scale.

3. On 31st December, 2003 at Hotel Leela, Sahar, Mumbai the petitioner had arranged an entertainment programme on the eve of new year. It sought permission under the Entertainment Duty Act from the Collector, Mumbai Suburban District. The Collector granted it on 18th December, 2003 subject to the payment of entertainment duty under the provisions of the Bombay Entertainment Duty Act, 1923. The petitioner had stated that it would issue about 1,000 tickets and therefore deposited an amount of Rs.1,27,000/-. Eventually, it appears that the petitioner issued 500 additional tickets for additional entrants.

4. On 3rd February, 2004, the Collector issued a notice to

the petitioner calling upon them to pay entertainment duty on the additional 500 tickets issued without prior permission and penalty equivalent to twice the amount of duty payable on the additional 500 tickets. The petitioner prayed for setting aside the said notice and waiver of penalty. The Collector rejected prayer and directed the petitioner to deposit the amount of Rs.60,500/- as duty on the additional 500 tickets issued without prior permission and levied a penalty of Rs.1,21,000/-.

5. Aggrieved by the aforesaid order, the petitioner appealed to the Commissioner who has dismissed their appeal.

6. Learned Counsel for the petitioner contended that the Commissioner (Appeal) has wrongly upheld the order of the Collector directing the petitioner to deposit the entertainment duty on 500 tickets since they did not issue 500 additional tickets. We find no substance in this contention. The petitioner had expressly agreed that they were liable to pay entertainment duty on additional 500 tickets in their statement made to the staff which

inspected the venue on the date of the event. Admittedly, the petitioner had got approval for issue of only 1000 tickets and has issued tickets in excess of that number. Neither has it submitted any account of the sale of the tickets in the concerned Tahsildar's office in Form “B” within 10 days as required by the Condition No. (v) of the permission. In the circumstances the finding of fact drawn by the authorities that there has been an evasion of duty is not liable to be interfered with.

7. We find no merit in this petition, which is hereby dismissed.

Sd/-

CHIEF JUSTICE

Sd/-

S. A. BOBDE, J.